

Section 13

APPENDIX 3 – SELECTION & AUTHORIZATION

Selection and Authorization

The Department is responsible for authorization of each food Vendor Applicant before the Applicant may participate in the Arizona WIC Program. The authorization process begins when a retail food store, pharmacy or military commissary files a complete application, including all required attachments, with the Department. Authorization occurs when the Department enters into a written, fully executed Contract with the Applicant. The Department shall provide the authorized Vendor with a copy of the executed Contract by certified mail.

An Applicant must have a fully executed written Contract with the Department before it may participate in the Arizona WIC Program as an authorized Arizona WIC Program Vendor. Only the Director of the Department or his/her designee may enter into a written Contract authorizing an Applicant to become an Arizona WIC Program approved Vendor.

The Department shall contract with a sufficient number of Vendors to serve all Arizona WIC participants. The Department may limit the number of Vendors to enable the Department to effectively manage the program.

Pharmacies may be contracted to provide "infant formula only". In this situation, any reference to "WIC foods" shall mean WIC approved infant formula. Except for food stamp authorization, all other provisions shall remain the same.

If any provision of the Contract conflicts with the requirements of the Federal WIC Program Regulations, the provisions in the Federal Regulations shall prevail. If any provision of the Contract conflicts with the requirements of the Vendor Manual, the Vendor Manual shall prevail. If any provision of the Arizona WIC Program Policy and Procedure Manual conflicts with Federal Regulations, the Federal Regulations shall prevail. If any provision of the Vendor Manual conflicts with the Arizona WIC Program Policy and Procedure Manual, the Arizona WIC Program Policy and Procedure Manual shall prevail. If any provision of the Vendor Manual conflicts with Federal Regulation, the Federal Regulation shall prevail.

The United States Department of Agriculture (USDA) has registered and trademarked the WIC acronym and logo and provided State agencies the discretion to authorize their use. Any use of the acronym "WIC" or the WIC logo must be prior approved in writing by the Department and the USDA.

Enrollment Period

Retail grocers, pharmacies or military commissaries with a fixed location may apply to become Arizona WIC Program Vendors for FFY 2003 through FFY 2005. The Department shall mail an enrollment application packet to each currently authorized Vendor (in May, 2002) and to any interested retail grocer, pharmacy or military commissary who requests an application by March 31, 2002, for the June 2002 open enrollment period. The open enrollment period deadline will be identified in the enrollment application packet. An applicant must be open, viable and ready to do business **upon submission** of the enrollment application.

The Department uses a three (3) federal fiscal year Contract. The Contract term is from October 1, 2002 through September 30, 2005. The Department must receive a complete original application, including all required attachments, not later than 5:00 p.m. if hand delivered, or postmarked on the closing date established in the enrollment application packet. **The Department shall not accept facsimile copies in lieu of the original documents.**

Required attachments include: a verified, complete Enrollment WIC Applicant Price/Stock Report; an original signed Contract; a copy of the Applicant's current sanitation operating permit for each location identified in the application, and a verified, completed application form and all required attachments, if applicable.

The Applicant must file a complete list of all outlets which are to be considered, to include, but no limited to, the name of each outlet, outlet numbers (if applicable), the address and telephone number, a contact person responsible for the operation of the WIC food instrument redemption program and the food stamp identification number of each outlet. The Multiple Store Notification form shall be used and a copy can be found in Appendix 2 of this Manual.

Applications received after 5:00 p.m., if hand delivered, or postmarked after the closing date shall be deemed untimely. The Department shall inform the Applicant that its application was untimely and shall not be considered during the open enrollment period. However, an untimely application will be processed after October 1, when the Arizona WIC Program begins continuous enrollment.

Evaluation Process

New Vendor Applicants: The evaluation process for Applicants who have not participated in the Arizona WIC Program within the last five (5) federal fiscal years is as follows:

1. The Department shall complete a needs assessment. The assessment shall determine whether an adequate number of Vendors serve Arizona WIC Program participants in a specific geographic area and thereby avoid participant hardship. (Travel in excess of five (5) miles in a rural area from the local agency clinic or the participants' residence or a one and one half (1½) miles radius of the local agency clinic or the participants' residence in an urban area to reach an authorized Vendor is considered inadequate participant assess.) The assessment may include:
 - a. Clinic locations;
 - b. Annual participant caseload increases;
 - c. Store closure;
 - d. Transportation considerations include, but are not limited to the following: presence of a wash that floods frequently, availability of public transportation, number of approved Vendors;
 - e. Cultural or language barriers;
 - f. Local agency recommendations;
 - g. Volume of business of currently approved Vendors.
2. If need for the Vendor Applicant is established, the Department shall analyze the Vendor's application according to the Vendor Evaluation Criteria established in this Section. If the Vendor Applicant is not needed, the Department will conclude the evaluation process and send out a denial letter.
3. If need for the Applicant is not established the Department shall notify the Vendor Applicant that their application will be denied due to lack of need.
4. The Department shall verify that the Applicant is an authorized Food Stamp Program retailer operating in good standing.
5. The Department or its designee shall conduct an unannounced on-site visit to verify the information contained in the application, Contract and Enrollment WIC Applicant Price/Stock Report. Upon conclusion of the site visit, the Department or its designee shall notify the Applicant of the results of the verification visit by providing the Applicant with a copy of the Vendor Site Review form. The Department or its designee shall make one unannounced follow-up visit if deficiencies are noted. Currently, Vendors who have had a satisfactory Vendor Site Review during the current fiscal year may be exempt from this criteria (open enrollment only).
6. The Department shall deny an application if the Department or its designee is unable to verify the information in the application or supporting documentation or if the Applicant has less than the required amounts or kinds of WIC approved foods at the follow-up visit.

Current and previous Vendors: The evaluation process for all current Vendors or Applicants who were previous Vendors who have participated in the Arizona WIC Program at any business location during the previous five (5) federal fiscal years is as follows:

1. The Department shall follow the Vendor Evaluation Criteria established for new Vendors.
2. The Department shall evaluate the Vendor's file in the following areas:
 - a. Compliance with the Vendor Contract, Federal Regulations and this Section at all business locations;
 - b. Responsiveness to Vendor Site Review corrective action recommendations and participant/authorized representative complaints;
 - c. Past performance in the previous five (5) federal fiscal years, including points accrued and sanctions assessed;
 - d. In the case of stores owned by corporations, past performance at other locations operated by the same corporation;
 - e. Compliance with the Food Stamp Program requirements;
 - f. Timely and complete submission of Vendor WIC Price/Stock reports.

Failure to meet **all** of the Vendor Evaluation Criteria, or if the Vendor's history file evaluation is unacceptable, provides cause to deny an application or to terminate a current Vendor's Contract.

All new Vendor Applicants, current and previous Vendors must attend the Department's mandatory training session scheduled by the Department for each open enrollment period. Each store shall send a management representative or their designee who shall be responsible for Arizona WIC Program compliance at that location. In addition to the management representative or their designee, other representatives may be designated to attend the mandatory training and function as training liaisons for that location's site. The additional store (outlet) representatives who function as training liaisons shall not be a substitute for the management representative or the designee.

Attendance at in-store training or at a mandatory or voluntary training session in a previous and/or a current contract cycle does not satisfy the requirement for attendance at the mandatory training session for the current open enrollment period.

Before an Applicant is denied due to lack of training only, and there is a documented need for the Applicant, the Applicant's original application and related attachments shall be re-evaluated under the Participant Access criteria stated in this Manual. The Applicant will then be given only one (1) opportunity to attend the Department mandatory training session scheduled.

Individual outlets (stores) may be added to a Vendor Contract without affecting the status of the other outlet(s). The Multiple Store Notification form shall serve as Written Notice and shall be received by the Department not less than thirty (30) calendar days before the outlet opening date (A copy of the Multiple Store Notification Form is located in Appendix 2 of this Manual), along with the Enrollment Price/Stock Report Form. The Department shall evaluate the individual outlet based on the evaluation criteria described in this Manual.

Continuous Enrollment

The Department will accept and process applications at any time during the year. However, there will be a six month period just prior to the end of the current contract cycle (April 1, 2005 through September 30, 2005) where no new applications will be accepted or processed. This will be done in an effort to complete the evaluation process for the next contract cycle (October 1, 2005 through September 30, 2008). If any applications are received by the Department during this closed period, they shall be processed after October 1, 2005 under the continuous enrollment.

Change of Ownership

When a change of ownership occurs (including, bankruptcy of a currently approved Arizona WIC Program Vendor), the new owner shall complete an application to become an Arizona WIC Program Vendor, including all attachments. This should occur not less than (30) calendar days prior to the transfer of ownership to ensure that services to Arizona WIC Program participants are not interrupted. The Department shall evaluate the application based on the criteria described in this Manual. When the Department is notified of the change of ownership in writing by the Vendor, the Department shall initiate the follow-up actions necessary to reduce or eliminate any disruption of service to Arizona WIC Program participants. If a Vendor ceases operation by closing a location, any subsequent reopening shall be processed through the full application process, not under the change of ownership clause.

The Department shall evaluate all of the applications for all of the above-mentioned based on the evaluation criteria described in this Manual.

Vendor Evaluation Criteria

In addition to filing a complete and timely application which includes the attachments, an Applicant must meet **all** of the evaluation criteria. Failure to meet any of the criteria provides cause to deny the application. All Applicants shall be evaluation in accordance with the following criteria:

Stock Requirements

Maintain the minimum stock and variety of all WIC foods from the time an application for enrollment is completed and if approved, throughout the contract period as described in Section 2 of the Vendor Manual;

1. Grocers/Commissaries

Grocer/Commissary Applicants shall have the required WIC approved foods in the amounts and variety required on its shelves or stored at its location address (not available to order) **from the date an application** is submitted. WIC approved brands are listed in the Vendor Manual.

2. Pharmacies

Pharmacy Applicants shall agree to order WIC eligible infant formula in the amounts and brands specified on the food instrument redeemed by the WIC participant/authorized representative, or ordered by the local agency or Department.

Competitive Price Evaluation.

The Department shall calculate the average price for the most frequently issued women, child and infants packages. A competitive food package cost is at or below 140% of the local agency average cost for the packages. The local agency's average cost shall be determined by using the current Vendor Food Cost Report in calculating the average price for the packages. If two (2) or more stores are located within a one and one half (1½) mile radius, the Applicant with the lowest combined total price may be selected as the WIC Vendor.

Accessibility to WIC participants.

The Applicant's location(s) and hours of operation shall confirm to the following requirements:

1. The Applicant shall be open for business a minimum of ten (10) hours a day, six (6) days a week.
2. The Applicant location shall be accessible to WIC participants because of its proximity to a WIC clinic or to the participants' residence.

Type of Store.

The Applicant shall be a retailer of groceries who has forty-five (45) percent or more of its gross sales from groceries and not from alcohol or tobacco products or lottery sales. A pharmacy which provides only special order authorized infant formula is exempt from this evaluation requirement. Stores that are classified as Super Centers **must** separate the retail grocery section from the general merchandise section.

Sanitation.

The Applicant shall be in compliance with all state, municipal and local sanitation standards and must have a current Permit to Operate posted in the store.

History of Compliance.

The Applicant shall not have been sanctioned or disqualified from participating in the Food Stamp Program or another Arizona WIC Program for a period of five (5) federal fiscal years prior to application.

Community Acceptance.

An Applicant who previously participated as an Arizona WIC Program Vendor shall not have any substantiated participant complaints for a period of five (5) federal fiscal years prior to the application date.

Training.

The Applicant shall accept mandatory training by the Department as a prerequisite to approval of the Vendor Contract. The Vendor shall also accept regional, state location and in-store training and shall implement corrective action(s) when a violation of state or federal rules or policies and procedures as outlined in the Manual (See Training).

Conflict of Interest.

There shall be no conflict of interest between the Vendor and the Department or the local agency and all provisions of A.R.S. §38-511 apply to the Department's Contract with the Vendor.

Volume of WIC Business.

The Applicant which participated as a WIC Vendor during the previous Contract period and had an average of ninety (90) or fewer food instruments redeemed for the quarter of February, March and April may be considered to have too low a volume, and may be evaluated as demonstrating a lack of demand for the Vendor Applicant in the area.

Food Stamp Status.

The Applicant shall have authorization from and operate in compliance with the Food Stamp Program regulations, except for pharmacy contracts only for the sale of special formula. Applicants who are currently disqualified from the Food Stamp Program shall not be considered as WIC Vendors.

Business Integrity.

The Applicant's owner's, officer's or managers shall maintain a standard of business honesty and maintain a reputation of good business practices. The applicant's owner's, officer's or managers shall not have a criminal or civil judgment against them in the last six years.

Timeframes for Action for Open Enrollment

The Department will review all Vendor applications by August 9th.

By August 23rd, the Department will send a certified notice to all new Vendor Applicants whose application were denied. Appeal rights shall be outlined in the notice.

By September 1st, the Department will send a certified notice to current Vendors who did not file applications notifying them that their Contracts shall expire on September 30th.

By September 24th, the Department will send the fully executed Vendor Contract and Vendor information packet to each Applicant who was authorized to become a WIC Vendor.

Contract Approval

After evaluation of the Vendor application and upon a determination that the Applicant met all of the evaluation criteria, the Department will authorize the Vendor Applicant to become an approved Arizona WIC Program Vendor. Upon authorization, the Department will execute the Vendor Contract, assign the applicant a Vendor ID number and two (2) ID stamps so that it may begin to accept WIC food instruments at the beginning of the contract period. Prior to the execution of a Vendor Contract which covers more than one outlet, the Vendor shall file a list of outlets participating as WIC Vendors including the name of each outlet, outlet numbers (if applicable), its address and telephone number, a contact person at each location responsible for the operation of the WIC food instrument redemption program and the food stamp identification number of each outlet.

Termination of the Contract

Either the Vendor or the Department may terminate the Contract according to the terms identified in the Contract. The Contract will be terminated immediately if the Vendor ceases operations, ownership changes (whole or controlling interest), or the Vendor files bankruptcy which causes ownership or control to change.

The Vendor must inform the Department, in writing, not less than thirty (30) calendar days before the date of termination, change of location, ownership or control of the business or the date that the Vendor will cease business. The Department will send the Vendor a letter confirming the date of termination and the date by which food instruments must be deposited for payment.

When an outlet under one Contract ceases operations, the Vendor must complete in writing a Store Closure Notification form and submit it to the Department not less than thirty (30) calendar days prior to closure of the outlet.

The Vendor must return its Vendor ID stamps to the Department within ten (10) calendar days of termination of the Contract, a change of ownership or control of the business, or termination of the business.

Note: WIC Vendor authorization is not transferable and the Contract shall be terminated. Therefore, if there is a change of ownership, the new owner shall complete an application and meet all enrollment criteria.

Expiration of the Contract

The Department will notify the Vendor at least fifteen (15) calendar days prior to the expiration of its Contract. Expiration of the Vendor's Contract is not subject to appeal

Contract Termination and Disqualification

The Department may terminate a Contract or disqualify a Vendor, which includes termination of the Contract, by providing the Vendor with thirty (30) calendar days advance written notice.

It will be determined by the Department prior to notification of disqualification whether the Vendor is eligible for a Civil Money Penalty, so that the Vendor is made aware of its alternatives at the time of notification.

Any Vendor that is disqualified from another Food and Nutrition Service (FNS) Program may be disqualified from the Arizona WIC Program for the same length of time. During the disqualification, the Department will not consider the Vendor for authorization as an approved WIC Vendor.

The Department **must** terminate a Vendors contract if the Vendor fails to meet any of the selection criteria outlined in this section (e.g., failure to maintain minimum stock, competitive pricing, etc.) However, the Department may allow one opportunity to correct.

Customer Relations

During the term of this Contract the Vendor shall post in a conspicuous place the "We Accept Arizona WIC Food Instruments" decal provided by the Department.

The Vendors shall give WIC participants/authorized representative the same courtesies shown to all other customers.

The Vendor shall allow participants/authorized representatives access to all check-out lanes (**excludes** "Cash Only" and self serve lanes).

The Vendor shall ensure that all information pertaining to WIC participants/authorized representatives shall be confidential, except for Department and local agency monitoring, investigation or oversight.

The Vendor shall accept food instruments from WIC participants/authorized representatives without regard to their race, color, disability, age, national origin, or sex.

The Vendor shall comply with:

- a. The non-discrimination provisions of Federal law;
- b. Regulations in 7 CFR Parts 15, 15a, 15b;
- c. Applicable provisions of the Americans with Disabilities Act of 1990;
- d. All state, municipal and local sanitation standards.

Pricing

The Vendor shall charge prices for WIC foods that are comparable to the prices charged by other similar type stores.

The Vendor may contract price for WIC approved foods.

The Vendor shall mark clearly the price of WIC approved foods either on the product container or the shelf.

High Risk Identification System

The Department has developed a system to assign Vendor peer groups for high risk analysis.

The Department captures Vendor information from the Arizona WIC Program Vendor Application to complete the service bureau contractor Vendor data input form. Vendors are classified in the following peer groups:

1. Pharmacy (class 1)
2. National/Regional or Local Chain (class 2)
3. Super Centers (class 3)
4. Large Urban Independent – more than \$750,000 total gross annual sales (class 4)
5. Small Urban Independent – less than \$750,000 total gross annual sales (class 5)
6. Large Rural Independent – more than \$750,000 total gross annual sales (class 6)
7. Small Rural Independent – less than \$750,000 total gross annual sales (class 7)
8. Reservation (class 8)
9. Military Commissary (class 9)

For peer group purposes, a chain is classified as a group of six (6) or more outlets listed under one (1) Contract.

Information relative to the number of cash registers, square footage, hours of operation, number of employees, warehousing and delivery schedules, etc. is collected and may be used for further comparison. For example, comparisons are made among volume of food instrument redemptions and sales and geographic area.

Data reports are produced which provide both peer group and redemption comparison data.